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HOW TO ADJUST THE ELECTION LAWS TO MODERN CONDITIONS.

BY JAMES T. CLARK.

STUDENTS of all the current election-reform plans are conscious that, underneath the campaign of the reformers against the politicians, is steadily developing the true democracy. We are too much inclined to think of democracy as a political institution, to be compared and weighed in the balance against monarchical, aristocratic and other forms of government, whereas it is simply the assertion of the equal right of all to enjoy the earth. Ever since science gave society to understand the possibilities of this enjoyment and Voltaire's school taught it to fix its eyes on this world, instead of another, the destiny of democracy has been plain. It is a pity that the means, or machinery, of popular government should lag behind the economic and social realization of it.

That progress to this end should go by currents and counter-currents is inevitable. At present, with all the eagerness of intelligent modern society to work out some adequate scheme of popular control of government, it has got foul of the contrary principle of tyrannical control by a few, represented by political party organization. So dominant has this power become that the majority of American citizens accept it as permanent. All their plans for bettering the results of democracy begin with party. It is no wonder, since party has so firmly intrenched itself in the popular mind and in the law; but if it is in principle opposed to democracy, it is plain that it cannot be the effective instrument of the latter. All the election reforms now agitated, the various forms of the ballot, direct as opposed to primary nominations, and the corrupt-practices legislation, all are the sequels of party domination and assume its continuance. The

direct-nomination plan, in theory, seeks to cut out the party primary, but in fact it keeps the party primary alive by giving the party label its same old sway. Whether in large constituencies any true selection of candidates can be made by the direct voting of all, is a question that reason must answer in the negative. Unless something corresponding essentially to the party primary intervenes, the vote, it is evident, must be scattering and inconclusive. Any more diffused influence toward concentrating the vote in a large city—say, by the high reputation of conspicuous citizens—must be easily overborne by a little organization after the machine pattern, using its powerful traditions. That this is the fact, Mr. Luce, the author of the Massachusetts direct-nomination law, himself testifies. He told the writer recently that under this method no more independent candidates are put forward than under the old.

Its exhibition in Boston this year was dismal. Hardly half the registered voters participated in the primaries, and the nominations were confined to the regular candidates of machine factions.

The laudable efforts of the Association to Prevent Corrupt Practices in New York State have resulted only in such a complicated, though thus far ineffective, law that the State Department is at a loss how to interpret it and is at a standstill as to its enforcement.

The ballot of to-day, whose complexity perplexes most of our voters, is but a physical index of the complexity and absurd futility of our election scheme. Is any private business done by such ill-adapted means? Yet we go on reforming the ballot without touching the profound fallacy behind it.

The fact is that something corresponding to the party primary is, in its nature, an essential of democracy in large populations. England's experience under its present low suffrage is almost a demonstration of this. With us the caucus sprang up spontaneously with the growth of our population, beginning with the large constituencies. The Congressional caucus of the beginning of last century, which undertook to converge the choice of the country on Presidential and Vice-Presidential candidates, was the prototype. It scandalized our forefathers. In England, after the Reform Act of 1867, with great extension of the suffrage, this "Yankee invention," as it was scornfully called, appeared

full-fledged to meet the problem of vast constituencies. Joseph Chamberlain was the first to appropriate it as the means of controlling mere numerical majorities to which democracy had come. John Stuart Mill, representing the minds in advance of the times on that subject, protested against this machinery devised to swamp individualism by massing individuals. Nevertheless, it is probably true that the caucus has ruled England's political destinies since its adoption in Birmingham in 1868. The whole apparatus of the party system as known among us arose in England in turn. On the death, some eight years ago, of Mr. Thomas Schnadhorst, the London "*Times*" told the whole history. He had been a sort of Hanna or Croker of the Liberal party; to him Mr. Gladstone frankly attributed the success of his party. The "*Times*" admitted that the caucus, which the Tories scorned when it was first employed by the Radicals and Liberals, had forced itself upon the Conservatives, until that party had carried it to further lengths than those who introduced it in England. This would seem good evidence of the necessity of the caucus to the system of direct universal voting in large populations, contrary as the idea was to British traditions.

As long as the conditions call for some agency of this kind for the operation of at least a nominal democracy, it will play its real part whether recognized by the law or ignored by it. It is plain that this party primary commands the situation at present and has been the master of our destinies. The people have steadily less and less control of it. After the experience we have had with it, it seems an unavoidable conclusion that the permanent party organization plan is a false democracy.

No wonder the eagerness for political liberty took this first course. That every one should vote for everything seemed the obvious mode of popular government; but this is reducing society, in principle, to a dead level. Not that the grades of men are fixed, but that there is an eternal touchstone of their classification, that is their usefulness to society. In all other relations of life, except government, this element of individual force has play. In business, there is the nicest selection, according to services. Every active member of society comes to be labelled as honest or the contrary, industrious or slothful, close-fisted or open-handed, generous or ignoble, stanch or timid, and so forth, and society uses them accordingly. But our proposition in the

present form of democracy is that every one should count the same in the important business of selecting our officers. The desirability of some distinction among men in this function will be readily assented to; and it will even be claimed that the party system meets this need. But it cannot be denied that it works to private and to anti-popular ends. The test of a property or educational qualification of the voter is rejected as being too little plastic and only a rough method, like the civil service examination system. Their importance to it as judged by society itself seems to be the only criterion of the fitness of men to have a hand in the direction of government. The whole problem of democracy, then, is how to give that judgment of society free play. It is submitted that the present party system does not effect this.

It needs to be said here that what is known as the party system is really a perversion of the party principle; but it has become a fetish to which we have transferred all our ideas of party, and our minds are so fully in its control that we cannot conceive a change. So, "like boys that swim on bladders," we are not using our powers. We have virtually handed over the whole business of government to party organizers, and turned ourselves to other affairs quite aside from the public thing.

Among all the hopeful projects of reform, there is one which has the distinction of not beginning with party. It is a plan proposed some years ago by a citizen of New York State,* which is virtually a return to the New England Town Meeting idea, with adaptation to new conditions and safeguards against the invasion of machine politics. The plan recommended itself so well to the citizens of the city where it was first put forth that a bill embodying it was put through the Legislature, only to be vetoed by Mr. Flower, who was then Governor. This plan begins by obliterating the politician's map of election districts. In a typical city, it preserves the ward boundaries, but mingles all the voters within those limits without geographical separation. Assuming that within such limits as a ward there is some community of acquaintance and interests, it proposes that a registration of the voters therein shall be made and groups of two hundred, or about that number, selected by lot, the names of voters being chosen from the ward register as those of jurors from a

* The late C. C. P. Clark, M.D., of Oswego.

panel. These groups, it is proposed, chosen thus by lot, should at once meet and perform the single part of choosing a representative, not necessarily from their own number, but from the ward, to meet with other representatives chosen in the same way by the other groups of the ward. These representatives in each ward form a college of electors, which has the double function of naming ward officers, when met together, and also naming a representative for the ward to a higher college composed of representatives chosen in like manner. This system of compound representation is logically extensible according to the complexity and rising planes of government.

A prime feature of the plan is that the officers thus chosen must take office and continue in it until they are removed by the same representative electors who appointed them. The representative electors are likewise removable by the constituency which chose them. A redivision of the voters into primary groups by lot is to be made periodically.

It is claimed for this system that it employs two principles essential to any true popular government, which the present election system violates: first, an actual conference of citizens limited to a number small enough to permit actual free discussion and the operation of the influence of personality; second, restricting the participation of citizens in the control of government to the scope of their intelligence.

That is, it corrects two lies of our present system—namely, the false assumptions that the voter can express his real choice, and that he is qualified to choose all officers. All the election law to-day amounts to, aside from the regulation of the party primaries—that is, aside from the party nomination machinery—is that every voter should on a certain day go to the polls and vote for all officers. The rest is regulation by the party system. It provides for no meetings for deliberation, but assumes that a choice of public officers with regard to satisfactory fitness can be had by the impulse of the mass of voters. Of course, the explanation of this is that this simple law is the survival of the early period of our history when society was as simple. But the conditions have changed from the simple to the complex. Yet there has been no adjustment of the fundamental law to the new conditions.

The need of this adjustment tells the whole story of the rise of

party organization and the machine politician. It has been their occasion and their opportunity. All the Demogorgon mass of party machinery—primary, convention and committee, extending over the whole sphere of government—is the necessary aid and supplement to the utterly inadequate election law. The point, in connection with its effect on our politics and on the development of democracy, is that it has all been supplied by individuals or organizations without authority of, or responsibility to, the people, and that it is controlled more and more for the party organizers' private ends. It is admirably adapted to their purposes. There is reason in their division of the party voting body into small primary units. The whole principle here contended for, of a subdivision of the work of election, is recognized in the politician's plan. It is the plain means for organizing a large mass like, in its formation, to an army. Its other fundamental, as in military discipline, is obedience. The eternal conquest of spoils stimulating its spirit, its organization is vital and vigorous. It is this intrenched power that all movements of citizens outside of party have to cope with and overcome. This established rule, with its permanent organization, fed by the continuous returns of office, sets the measure of the public's effort necessary to take control of the public's affairs.

It is claimed for the plan of popular election briefly sketched above that, by beginning at the bottom and cancelling the politician's map of operations, this unequal contest is put on a more even basis. If, instead of beginning with small local units (election districts), whose voters are commandeered by the district lieutenants as so many counters to be cast up in the sum of the boss, the body of voters within a ward are fluxed and their assortment in primaries is determined by lot, as has been indicated, limiting this mingling to the boundaries of a ward as commonly existing in American cities, it is believed the principle is preserved that those grouped from such a body to meet together shall have neighborhood acquaintance, as far as it exists in modern cities, and local common interests to guide their simple part in the ascending process of selecting the fittest and best men. The base of this theory is "men not measures." For it is held that good measures can only come from good men, and that from them they will come.

We are proud and confident of the virtue of the old New Eng-

land Town Meeting; but it has still an older title to importance. It was only rediscovered and adopted by our forefathers, for it appeared spontaneously in the early budding of free Teutonic ideas after the Middle Ages. It has appeared likewise at various crises of society, when old institutions were in flux and natural methods asserted themselves. The plan here outlined was resorted to for the assembling of the *tiers état* in the States General at the time of the French Revolution, which became the National Assembly. How admirable its results, let those instructed and patriotic historians, Erckmann and Chatrian, testify.

In "The Story of a Peasant"* will be found the proclamation of the King that called this body together and ordered the manner of its election. The document provides (1) that the voters of each parish and community were to meet at the "Guild Hall" and elect deputies who should constitute "the assembly of the third estate" of the town; (2) that this body should appoint deputies at the rate of "one for every hundred houses," to represent it at the convention of the "principal bailiwick"; which, in turn, (3) was to send a fourth part of its number to "represent it at Paris."

Commenting on that compound system of representation, the authors remark:

"It will be observed that instead of naming, as we do now, deputies of whom we know nothing . . . we chose, as was sensible, from one's own village. . . . Those persons then selected the most sensible, the most able, the boldest and best educated to sustain our appeals to the King, the princes, the nobles and the bishops. In this fashion we had what was good. Look at what our deputies did in '89, and what these do to-day; then you will see whether it was better to have folks who were chosen because they were known, or men whom you elect because the prefect recommends them to you."

Substitute in the last sentence "politician" for "prefect," *et de te fabula narratur*.

Cromwell's army, when they demanded their right to be heard in Parliament for the part they had played in bringing about the Commonwealth, adopted much the same plan. The testimony of the great founders of the Republic is almost an injunction to us. The Town Meeting, with which Samuel Adams knit up the bone and sinew of a new nation, has well been called "the primordial cell of democracy." John Adams, when our Minister in Eng-

* Vol. I, p. 135, *et seq.*, Beeton's Library Edition.

land, explained the young nation's strength to her wondering mother by the simple secret, "the town meeting, the school meeting, the church meeting and the meeting of the militia on training-day."

Thomas Jefferson, the most practical as well as the most far-seeing of the prophets of democracy, said:

"Those wards, called townships in New England, are the vital principle of their government, and have proved themselves the wisest invention ever devised by the wit of man for the perfect exercise of self-government and for its preservation. As Cato then concluded every speech with the words, '*Carthago delenda est*,' so do I every opinion with that injunction, 'Divide the country into wards.'"

That is, divide the voting body into small primary groups.

Virtually the very plan proposed here was left as a legacy by Turgot, that prophet of human rights and liberty, so far ahead of his times that the peaceful revolution which his ideas were beginning to work, and surely must have worked, was made a matter of posthumous centuries by the actual bloody Revolution.

Any such plan of popular elections as that here broached, assuming it is approximately politician-proof, must seem at present almost a counsel of perfection. Especially must this seem so to those who have most acquaintance with what has to be overcome before so radical a substitution could be made for the present hierarchy of politicians. Only those who have worked in season and out of season to gain an inch toward the protection and freedom of the ballot know what the arts and stratagems are that must be encountered. The very law confounds them; the sinister minds of the party legislators have wrought a confusion.

The permanent party idea being imposed on us, the laws, even when ostensibly directed to curbing its absolute rule, have served to perpetuate it. If now anything is undertaken which promises to essentially modify the machine's control, it is a Sisyphean and endless task to revise and amend appropriately the existing statutes, only with the prospect that the particular and vital point will be dropped out of the new legislation in its course through the legislature.

The question then arises whether anything can be hoped from following up this endless and heretofore fruitless negotiation with the politicians, in which hardly anything has been wrested from their main purpose and design. Bold as the proposal is, it is

a question whether some radical renovation of our election law cannot be *forced* by public sentiment from the politicians, at least enough for an experiment on a small scale of something like pure democracy. The politician is content to lead us on false scents, throwing us now and then a fair-sounding, nominal but unsubstantial concession. These herrings drawn across the trail have thus far led nowhere.

On this point, the history of the effort to try the plan described here is instructive. It proposed a radical change. Nevertheless, when submitted in the public prints in the city where it originated, it was supported by a large majority, if not a substantial unanimity, of the voters. This was testified to by the outgoing and incoming mayors. The bill, incorporating the plan as an amendment to the city charter, went to Albany with a large delegation of the foremost citizens behind it. The local representatives in Senate and Assembly could not refuse to promote it ostensibly, simply as a measure of home rule. Yet how insincere the politicians were was shown by the appeal of the Assemblyman who had the measure ostensibly in charge to the local boss to save him from the pressure for the measure of the thousands of best citizens of both political parties. He wrote he had received just two letters against it. The only response to this unhappy politician was from a handful of notoriously active machine men. But the popular demand was too strong to be denied. The measure passed both houses, but its importance had been measured and the higher powers had decreed its death. Even Tammany aroused itself to suppress this promising project of reform from a distant part of the State. The result was a veto by Governor Flower in a message so inept that it showed neither a knowledge of the measure nor a knowledge of democratic principles. Why should it? They have not been the politicians' study.

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